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13 Attorneys for Defendants
 14 HSBC MORTGAGE CORPORATION (USA) AND
 15 HSBC BANK USA, N.A.

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 Philip Wong, Frederic Chaussy, and Leslie
 20 Marie Shearn, individually, on behalf of all
 21 others similarly situated, and on behalf of
 22 the general public,

23 Plaintiffs,

24 v.
 25 HSBC Mortgage Corporation (USA);
 26 HSBC Bank USA, N.A.; and DOES 1
 27 through 50, inclusive,

28 Defendants.

Case No. C 07 2446 MMC [ECF]

**DECLARATION OF JEFFREY P.
 NEEDHAM IN SUPPORT OF
 DEFENDANTS' OPPOSITION TO
 PLAINTIFFS' MOTION FOR
 CONDITIONAL CERTIFICATION,
 PRODUCTION OF UPDATED CLASS
 LIST, AND PARTIAL SUMMARY
 JUDGMENT**

Date: February 8, 2008
 Time: 9:00 a.m.
 Courtroom: 7 (19th Floor)
 Judge: Hon. Maxine M. Chesney
 Complaint Filed: June 29, 2007 (Amended)
 Trial Date: Not Yet Set

1 I, Jeffrey P. Needham, hereby declare and state:

2 1. I have personal knowledge of the facts set forth below. If called as a witness,
 3 I could and would testify to the following:

4 2. I am employed by HSBC Mortgage Corporation (USA) (hereinafter
 5 "HMCU"). My title is "Senior Vice President, Western Division." In my job, I am responsible for
 6 overseeing the retail and wholesale business of HMCU in the Western United States, including
 7 overseeing individuals employed in the Senior Retail Mortgage Lending Consultant, Retail
 8 Mortgage Lending Consultant, Premier Mortgage Sales Officer, and Sales Assistant positions.

9 3. I have worked with the same mortgage company for fourteen (14) years. In
 10 1997, the company for which I worked was called Marine Midland Bank, which was owned by an
 11 HSBC company. In or about 2000, Marine Midland Bank rebranded and became known as HSBC
 12 Mortgage Corporation (USA).

13 4. Of the seventeen (17) declarations made by current or former HMCU
 14 employees that were filed in support of Plaintiffs' Motion, ten (10) come from employees who work
 15 or worked in California. Those employees are: Frederic Chaussy, Stephanie Chu, Dustin Cox,
 16 Jason Henry, Stephany Hor, Ryan Kanazawa, Larry Lee, Christine Lim, Philip Wong, and Dennis
 17 Yee.

18 5. Frederic Chaussy's employment with HMCU was terminated for
 19 unsatisfactory performance. In twelve (12) months, Mr. Chaussy funded only one (1) loan.

20 6. Stephanie Chu's employment with HMCU was terminated for reasons relating
 21 to dishonesty and HMCU's lack of trust in Ms. Chu.

22 7. Dustin Cox resigned from employment with HMCU; however, prior to his
 23 resignation, he was placed on discipline or corrective action (referred to as an Interim Job Discussion
 24 or "IJD") for unsatisfactory performance. His unsatisfactory performance related to the fact that he
 25 had not funded a loan for at least six (6) months.

26 8. Jason Henry's employment with HMCU was terminated for unsatisfactory
 27 performance related to low production.

1 9. Lawrence Lee resigned from employment. Like Mr. Cox, however, Mr. Lee
 2 was also on discipline or corrective action for unsatisfactory performance. His unsatisfactory
 3 performance related to low production.

4 10. Christine Lim's employment with HMCU was also terminated for
 5 unsatisfactory performance related to low production.

6 11. Philip Wong, who is still employed by HMCU, is currently on an IJD for
 7 unsatisfactory performance. His production has been well below HMCU's minimum standards for
 8 profitability.

9 12. Dennis Yee's employment with HMCU was also terminated for unsatisfactory
 10 performance due to low production.

11 13. I am aware that Plaintiffs' counsel have already sent a notice about this
 12 lawsuit to not only the people they characterize as "loan officers" employed by HMCU, but also to
 13 people in jobs that are not part of this lawsuit. For example, they sent a solicitation letter to Terri
 14 Bostick, who works for HCMU on the wholesale side of the business as a "sales assistant."
 15 Attached as Exhibit 1 is a copy of this notice.

16 14. I am also aware that Plaintiffs' counsel have also sent an "investigative letter"
 17 to a person employed in an Account Executive role—another job that is not part of this lawsuit.
 18 Attached as Exhibit 2 is a copy of this letter.

19 15. I am further aware that Plaintiffs' counsel have also sent notices about this
 20 lawsuit to the people they characterize as "loan officers." I have been told this directly by at least
 21 one of loan officers who works for me. I have also heard this information indirectly through the
 22 regional managers who work for me, Amy Ku and Amy Young.

23 16. Senior Retail Mortgage Lending Consultants and Retail Mortgage Lending
 24 Consultants who do not work on the "private banking" side of HMCU's business are paid under the
 25 "HSBC Mortgage Corporation (USA) Retail Loan Consultant Incentive Plan," which provides a
 26 draw and commissions, but no base salary. The amount of a person's draw is not something that is
 27 consistent. For example, I have seen a Retail Mortgage Lending Consultant with a draw as high as
 28 \$60,000. The amount of a person's draw depends on various factors. For example, managers such

1 as myself or my Regional Managers will work with a Retail Mortgage Lending Consultant when the
 2 person's production increases, so that we can determine whether we believe that the person would be
 3 able to earn commissions high enough to cover a higher draw. If we believe the person's production
 4 history indicates a pattern of being able to earn enough commissions to cover the draw, we would
 5 agree to increase the draw if the Retail Mortgage Lending Consultant also agreed to increase it. In
 6 addition, Retail Mortgage Lending Consultants can request to have a lower draw even if their
 7 production history would support having a higher draw. At least one purpose for requesting a lower
 8 draw is so that the Retail Mortgage Lending Consultant does not put him or herself in a position of
 9 "living beyond their means." In other words, some people like to keep their draw lower in order to
 10 make sure that they are always working hard to generate commissions that will more than cover their
 11 draw.

12 17. I am also aware that there are Retail Mortgage Lending Consultants who earn
 13 over \$100,000 on an annual basis. In fact, at least one of the Retail Mortgage Lending Consultants
 14 who works in my region is currently earning over \$100,000 on an annual basis.

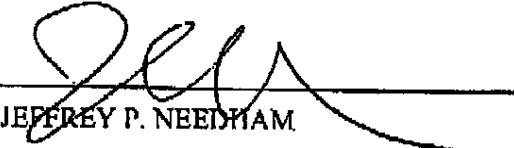
15 18. Historically, neither HBUS nor HMCU has had a very big or strong presence
 16 in California. It was only in 2005 that HBUS and HMCU began to engage in an aggressive
 17 campaign to increase their presence and recognition in California. By comparison, HBUS and
 18 HMCU have had very strong and visible presences in New York for a minimum of ten (10) years.
 19 Given the fact that HBUS and HMCU are more well known in the Eastern part of the United States,
 20 it would be fair and accurate to say that loan officers working in California have had very different
 21 experiences in working for HMCU and developing their business and prospective client base than
 22 loan officers in the Eastern part of the United States. Thus, the experiences of loan officers in
 23 California cannot be seen as typical or similar to loan officers working in other states. I base this
 24 statement upon the fact that I talk to other managers who head up the various HMCU regions or
 25 divisions across the country who have told me what their business market is like. I also base this
 26 statement upon the fact that I have talked to "loan officers" across the country about their business
 27 markets and experiences.

28

1 19. Based upon my knowledge of HMCU's growth in California since 2005 and
2 production information that I have seen, I would estimate that the highest number of Senior Retail
3 Mortgage Lending Consultants, Retail Mortgage Lending Consultants, and Premier Mortgage Sales
4 Officers employed at any one time in California has been between approximately twenty (20).
5 Because of the high turnover rate in for these positions in California, that high of twenty (20)
6 individuals employed in those positions would have likely been for no more than a three (3) to six
7 (6) month period.

8 I declare under penalty of perjury under the laws of the State of California and the
9 United States of America that the foregoing declaration is true and correct to the best of my personal
10 knowledge.

11 Executed this 10th day of January, 2008, in Concord, California

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13 JEFFREY P. NEEDHAM

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EXHIBIT 1

The Voice for employees

Nichols Kaster & Anderson, PLLP

November 12, 2007

Bostick Terri

HSBC - CA

ADVERTISEMENT

RE: Alleged Wage & Hour Violations by HSBC

Dear Bostick:

This letter is to inform you that we recently sued HSBC on behalf of employees who allege they were not provided compensation for overtime, meal and rest breaks. Our law firm, Nichols Kaster & Anderson, handles a wide variety of nationwide lawsuits against corporations that unlawfully deny their employees overtime compensation.

As a current or former employee of HSBC you may be eligible to make a claim if you worked over 40 hours per week and did not receive overtime pay or if you were denied (without additional compensation) uninterrupted 30-minute lunch periods and two 10-minute rest breaks daily. If you would like to make a claim for denied pay, please return the enclosed consent form and declaration promptly.

If you or anyone you know would like more information about our case against HSBC regarding deprived overtime and meal/rest periods, please contact my clerk, Lucas Kaster, toll-free at (877) 777-0622 or by email at lkaster@nka.com as soon as possible. Thank you.

Sincerely,



Bryan J. Schwartz
Attorney at Law

Encl.

THIS LETTER COMPLIES WITH ALL APPLICABLE STATE RULES OF PROFESSIONAL CONDUCT

1
CONSENT FORM AND DECLARATION

2 I hereby consent to join the lawsuit against HSBC as a Plaintiff to assert claims against it
3 for violations of the wage and hour laws of the United States and/or the states where I worked for
4 HSBC. During the past three years, there were occasions when I worked over 40 hours per week
for HSBC and did not receive overtime compensation.

5 I worked for HSBC as a (please check all that apply):

6 Retail Mortgage Lending Consultant
7 Senior Retail Mortgage Lending Consultant
8 Premier Mortgage Sales Officer
9 Field Administrator
10 Senior Field Administrator
11 Other Non-Management Mortgage Sales Employee

12 (Specify Title: _____)

13 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
14 correct.

15 *Bostick Terri*

16 Signature _____ Date _____

17 If above information is incorrect, please change _____

18 Print Name _____

19 Fax or Mail To:

20 Address (with apartment number if applicable) _____

21 Paul Lukas

22 Nichols Kaster & Anderson, PLLP City, State, Zip Code _____

23 4600 IDS Center, 80 S. 8th Street
24 Minneapolis, MN 55402
25 FAX (612) 215-6870

26 Best Phone Numbers _____

27 E-Mail Address _____

28 Social Security Number _____

29 Emergency Contact _____

30 HSBC Branch Location(s) Worked _____

31 CONSENT AND DECLARATION

EXHIBIT 2

the Voice for employees

Nichols Kaster & Anderson, LLP

December 21, 2007

Susan Reedy

HSBC

THIS IS AN INVESTIGATIVE LETTER

Dear Susan:

We understand that you are or were employed at HSBC Mortgage Corporation (USA) in the position of account executive. Our law firm, Nichols Kaster & Anderson PLLP, handles a variety of nationwide lawsuits against corporations who unlawfully deny their employees overtime compensation. We are currently investigating whether or not HSBC Mortgage Corporation unlawfully denied overtime compensation to its account executives across the country within the last several years.

If you were an account executive and worked over 40 hours per week at HSBC Mortgage Corporation, and you did not receive overtime compensation, you may be eligible to make claims against the company. We believe that HSBC will claim that you are or were an "outside sales" representative, so we are especially interested in the ratio of time you spent working from an HSBC facility or your home office, versus time spent physically out of the office meeting with potential clients.

Nichols Kaster & Anderson is already pursuing an overtime case against HSBC Mortgage Corporation on behalf of retail mortgage lending consultants, senior retail mortgage lending consultants, and field administrators. We hope this investigation will enable this firm to determine whether or not to pursue a similar case on behalf of account executives in the future.

If you have any information which may be helpful in our investigation, please contact our clerk Brad Heitzinger, toll-free at (877) 448-0492 extension 293 as soon as possible for a short interview. Thank you for your attention on this matter.

Sincerely,


Bryan Schwartz